MONTANA LEGISLATIVE HISTORY

Chapter 542 19 97

Bill H _____ S 202 Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Local Government		
Hearing Date(s)	Mar 16	✓ C	Hearing Date(s)	Feb 09	✓ C
	Apr 06	✓ C		Feb 22	✓ C
	_____	___ C		_____	___ C
	_____	___ C		_____	___ C
Date Out	Apr 06	✓ C		Feb 23	✓ C

Did this bill originate in an interim committee? ___ Yes ___ No

Committee _____ Report _____

Senate BILL NO. 200

INTRODUCED BY Warden Blaylock Healy Rasmussen Roth Devore Kolstad Fabrega Watt Semple

BY REQUEST OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE 69, CHAPTER 40; PROVIDING A SHORT TITLE FOR PURPOSES OF CITING THE CHAPTER; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO LICENSE SOLID WASTE MANAGEMENT SYSTEMS; AUTHORIZING THE DEPARTMENT TO INITIATE AND MAINTAIN ACTIONS TO COLLECT CIVIL PENALTIES; PROVIDING CONTROL OVER THE STORAGE, TREATMENT, AND DISPOSAL OF HAZARDOUS WASTES; AND AMENDING SECTIONS 69-4001, 69-4002, 69-4003, 69-4004, 69-4005, 69-4006, 69-4007, 69-4008, AND 69-4009, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-4001, R.C.M. 1947, is amended to read as follows:

"69-4001. Legislative findings and policy. It is hereby found and declared that the health and welfare of Montana citizens are being endangered by improperly operated ~~refuse-disposal-areas~~ solid waste management systems and by the improper and unregulated disposal of hazardous wastes. It is declared the public policy of this state to control

~~refuse--disposal--areas~~ solid waste management systems to protect the public health and safety and to conserve natural resources whenever possible."

Section 2. There is a new R.C.M. section numbered 69-4001.1 that reads as follows:

69-4001.1. Short title. This chapter may be cited as "The Montana Solid Waste Management Act".

Section 3. Section 69-4002, R.C.M. 1947, is amended to read as follows:

"69-4002. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) ~~"Garbage"-means-putrescible-animal--and--vegetable wastes--resulting--from--handling,-preparation,-cooking,-and consumption-of-food.~~ "Solid waste" means all putrescible and nonputrescible wastes including but not limited to garbage; rubbish; refuse; hazardous wastes; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; septic tank and cesspool pumpings; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood wastes and inert materials. "Solid waste" does not mean municipal sewage, industrial wastewater effluents, or mining wastes regulated under the mining and reclamation laws administered by the department of state lands.

(2) ~~"Refuse"--means--putrescible--and---nonputrescible~~

solid---wastes--(except--body--wastes)y--including--garbage, rubbish, street-cleanings, dead-animals, yard-clippings, and solid-market-and-solid-industrial-wastes. "Department" means the department of health and environmental sciences, provided for in Title 82A, chapter 6.

(3) "Rubbish"---means---nonputrescible--solid--wastes, consisting-of-both-combustible---and--noncombustible--wastes, such--as--papery-cardboard, abandoned-automobiles, tin-cans, wood, --glass, --bedding, --crockery, --and--similar--materials. "Board" means the board of health and environmental sciences, provided for in 82A-605.

(4) "Department"-means-the-department--of--health--and environmental--sciences, --provided-for-in-Title-82A, chapter 6. "Person" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity whether organized for profit or not.

(5) "Board"---means---the---board---of---health----and environmental--sciences, --provided--for--in-section-82A-605. "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any substance into or onto the land so that the substance or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(6) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which may cause or contribute to an increase in mortality or an increase in serious illness, taking into account the toxicity of the waste, its persistence and degradability in nature, its potential for assimilation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms. Hazardous wastes include but are not limited to those which are toxic, radioactive, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means.

(7) "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years.

(8) "Transport" means the movement of wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

(9) "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize the waste or so as to render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.

(10) "Hazardous waste management" means the management of the storage, transport, treatment, recycling, recovery, or disposal of hazardous wastes.

(11) "Resource recovery" means the recovery of material or energy from solid waste.

(12) "Resource recovery system" means a solid waste management system which provides for the collection, separation, recycling, or recovery of solid wastes, including disposal of nonrecoverable waste residues.

(13) "Resource recovery facility" means a facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(14) "Solid waste management system" means a system which controls the storage, treatment, recycling, recovery, or disposal of solid waste."

Section 4. Section 69-4003, R.C.M. 1947, is amended to read as follows:

"69-4003. ~~Dumping in an unlicensed area is~~ Unapproved disposal prohibited. No ~~person, partnership, company or corporation shall hereafter~~ may dispose of ~~any garbage, rubbish or refuse~~ solid waste or transport hazardous waste ~~in any place~~ except as permitted under this ~~act~~ chapter."

Section 5. Section 69-4004, R.C.M. 1947, is amended to read as follows:

"69-4004. License required. ~~Each year each person, partnership, company or corporation desiring to operate a refuse disposal area shall obtain a license for operating same from the local, county or district board of health having jurisdiction. To obtain a license to operate a disposal area, application to the local, county or district board of health having jurisdiction, must be made on forms provided by it. The application shall contain the name and residence of the applicant, the location of the proposed disposal area and such other information as the department may by regulation require. There shall be paid to the local, county or district board of health with each application for such license or for renewal of such license, an annual license fee of twenty five dollars ($25). This fee is to be deposited in the general fund of the county in which the refuse disposal area is to be located.~~ (1) Except as provided in 69-4008, no person may dispose of solid waste or operate a solid waste management system without a license from the department. The department shall provide application forms for a license as provided in this chapter. The application shall contain the name and business address of the applicant, the location of the proposed solid waste management system, a plan of operation and maintenance, and such other information as the department may by rule require.

(2) The department shall seek the advice and recommendations of the appropriate local board of health before issuing a license pursuant to this section. Before making a decision on a license application, the department shall inspect the proposed site in order to determine if the requirements of this chapter and rules adopted under it can be satisfied."

Section 6. Section 69-4005, R.C.M. 1947, is amended to read as follows:

"69-4005. ~~Department to approve disposal area~~ State hazardous waste disposal facility. ~~Upon receipt of the application, the local, county or district board of health having jurisdiction shall notify the department who will then cause to be made an inspection of the proposed site and determine if the proposed operation can comply with this act and rules and regulations adopted pursuant thereto. The department shall also inspect and approve plans which have been drawn up by the applicant for the creation of a refuse disposal area. When the department reports favorably upon the application, the local, county or district board of health having jurisdiction may issue a license to the applicant. All licenses shall expire one year after issuance, but may be renewed upon payment of an annual fee of twenty-five dollars ($25).~~ The department may establish, maintain, and operate state hazardous waste management

facilities to provide for the treatment, storage, or disposal of hazardous wastes accepted by the department as a result of spills, embargoes, citizen assistance requests, and other similar occurences. A state facility shall meet all the requirements for a hazardous waste disposal site required by this chapter."

Section 7. Section 69-4006, R.C.M. 1947, is amended to read as follows:

"69-4006. Revocation ~~of~~ or denial ~~refusal to renew~~ of license. The ~~local, county or district board of health having~~ jurisdiction department may deny or revoke ~~or refuse to renew any~~ a license to operate a solid waste management system after ~~reasonable notice and hearing if it finds that the disposal area is not operated in a sanitary manner as set forth by this law and by the rules and regulations adopted under this law~~ giving the applicant written notice and an opportunity for a hearing before the board. The decision to deny or revoke a license may be made only after a finding that a solid waste management system cannot be operated or is not being operated in compliance with this chapter or a rule or order issued pursuant to this chapter. The hearing held before the board on a denial or revocation shall be held pursuant to the provisions of the Montana Administrative Procedure Act."

Section 8. Section 69-4007, R.C.M. 1947, is amended to

read as follows:

"69-4007. ~~Rules and regulations inspections and recommendations~~ Powers and duties of department. ~~The department is authorized to promulgate rules and regulations for the operation of refuse disposal areas. Said regulations shall be prepared and published and shall contain sanitary standards for disposal areas. The department shall cause all licensed disposal areas to be inspected and recommended to the local, county or district board of health action which may be taken to enforce the provisions of this act.~~

(1) The department shall adopt rules governing solid waste management systems which shall include but not be limited to:

(a) requirements for the plan of operation and maintenance that must be submitted with an application under this chapter;

(b) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;

(c) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(d) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(e) procedures and requirements for the submission of

reports on the operation and maintenance of a solid waste management system and the generation of hazardous wastes; and

(f) any other factors relating to the sanitary disposal or management of solid wastes.

(2) The department has continuing authority and responsibility to inspect a solid waste management system under the provisions of this chapter. Inspections may be conducted only during reasonable hours and only after presentation of appropriate credentials identifying the inspector as a duly authorized employee of the department.

(3) The department may, through the attorney general or appropriate county attorney, initiate and maintain in district court enforcement actions, as provided in this chapter, including actions to collect a civil penalty or to enjoin the operation of a solid waste management system that is in violation of this chapter or a rule adopted by the department or order issued as provided in this chapter."

Section 9. Section 69-4008, R.C.M. 1947, is amended to read as follows:

"69-4008. ~~Landowner's rights preserved publicly operated disposal areas~~ Exclusion from chapter. (1) This act chapter ~~shall~~ may not be construed to prohibit ~~any~~ a person from disposing of his own ~~garbage, rubbish or refuse~~ solid waste upon his own land as long as ~~such disposal~~ it does not

create a nuisance or public health hazard. ~~Any incorporated city, town, rural improvement district or county may establish a disposal area and operate same without paying the annual license fee, but must meet all other requirements of this act.~~

(2) The exclusion contained in this section does not apply to:

(a) disposal of hazardous wastes; or

(b) after July 1, 1977, a division of land which falls within the definition of subdivision in Title 69, chapter 50, or the Montana Subdivision and Platting Act in Title 11, chapter 38."

Section 10. Section 69-4009, R.C.M. 1947, is amended to read as follows:

"69-4009. Penalty for violations. ~~Any person violating this act or regulations prescribed by the department under this act, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars ($50), nor more than five hundred dollars ($500). Each day upon which a violation of this act occurs shall be considered a separate offense.~~ (1) A person who disposes of solid waste or operates a solid waste management system in violation of this chapter, a rule adopted as authorized by this chapter, or an order issued as provided in this chapter is subject to a civil penalty of not more than $1,000. Each

day upon which a violation occurs is a separate violation.

(2) A person who stores, treats, transports, or disposes of a hazardous waste in violation of this chapter, a rule adopted as authorized by this chapter, or an order issued as provided in this chapter is subject to a civil penalty of not more than $25,000. Each day upon which a violation occurs is a separate violation."

-End-

STATE OF MONTANA

REQUEST NO. 562-77

FISCAL NOTE

Form BD-15

pliance with a written request received 2-9, 19 77, there is hereby submitted a Fiscal Note
200 pursuant to Chapter 53, Laws of Montana, 1965 - Thirty-Ninth Legislative Assembly.
ound information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members
Legislature upon request.

ESCRIPTION OF PROPOSED LEGISLATION:

n act to authorize the Department of Health and Environmental Sciences to license solid waste management systems; thorize the Department to initiate and maintain actions to collect civil penalties and provide control over the storage, atment, and disposal of hazardous wastes.

SSUMPTIONS:

1. Cost increases as a result of the proposed legislation will be minimal.
2. Current staff and budget are sufficient to comply with the legislation.

ISCAL IMPACT – LOCAL:

his bill requires state licensing of solid waste management systems and may cause some expenditure impact on local ntities through the elimination of the operation of unlicensed facilities.

ISCAL IMPACT – STATE

None.

Richard L. Trumpfon

BUDGET DIRECTOR
Office of Budget and Program Planning
Date: 2-21-77

45th LEGISLATIVE SESSION

COMMITTEE ON LOCAL GOVERNMENT

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
23	1-3-77	1-7-77	1-8-77			1-7-77			
64	1-10-77	1-14-77	1-14-77			1-14-77			
113	1-17-77	1-21-77	1-21-77			1-21-77			
116	1-17-77	1-21-77	1-21-77	1-21-77					
164	1-20-77	1-26-77	2-23-77		2-23-77				
175	1-21-77	1-26-77	2-24-77			2-24-77			
192	1-21-77	1-28-77	1-31-77			1-28-77			
195	1-21-77	1-28-77	2-9-77			2-8-77			
198	1-21-77	2-7-77	2-17-77			2-16-77			
199	1-22-77	2-2-77	2-3-77			2-3-77			
200	1-22-77	2-9-77	2-23-77			2-22-77			
224	1-22-77	1-31-77	2-4-77			2-4-77			
225	1-22-77	1-31-77	2-4-77			2-4-77			
226	1-22-77	2-4-77	2-18-77			2-16-77			
227	1-22-77	2-4-77	2-4-77	2-4-77					
232	1-24-77	2-2-77	2-3-77			2-3-77			
267	1-25-77	2-10-77	2-16-77		2-16-77				

[illegible] Senate House Bills and Resolutions

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 9, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 9, 1977 at 9:37 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Lockrem and Senator Thomas.

The following visitors were present: Owen Thompson; Fred Flowers, Fred's Crane Service; James M. Wylder, Montana Soft Drink Association; Fritz Smith, Pepsi Cola of Helena; R. F. Jorgusen, Sr., Great Falls Coca-Cola Bottling Co.; Elton M. Andrews; Terry Carmody, Department of Health and Environmental Sciences; Kathleen Bauer, Polson; Bill Fauke; Sandi LaSalle; Donna Hartley, Hartley's Garbage Service; Pete Frazier, Great Falls City-County Health Department; Russ Ruben, Flathead County; Jim Murry, Montana State AFL-CIO; Stephan M. Williams, Anaconda Company; Bob Gannon, Montana Power; L. D. Huss; Robert N. Helding, Montana Wood Products Association; Dave Wanzenried, State Commission on Local Government; Glen Drake, League of Cities and Towns; Dean Zinnecker, Montana Association of Counties; Russ Cannon, Montana Food Distribution.

CONSIDERATION OF SENATE BILL 200: Senator Warden, Sponsor of Senate Bill 200 gave a resume of the bill (attached). Senator Warden read a telegram she received from Douglas G. Stewart, President, Montana Recycling Inc., Missoula (attached). Steve Brown, Legal Counsel, State Department of Health and Environmental Sciences, stated approximately half of the land fills are not operating in compliance with the law as there is insufficient money to operate land fills. Hopefully this bill would make the state eligible for federal funds to properly operate land fills. Health Department can only recommend to local government what to do with land fill operations. Steve Brown proposed amendments to Senate Bill 200 (attached). Jim Murry, Executive Secretary, AFL-CIO, testified in support of Senate Bill 200 (attached). Steve Williams, Anaconda Company, supports Senate Bill 200 with the amendments proposed by Mr. Brown and feels the bill is needed at this time. Senator Warden stated the Montana Railroad Association supports Senate Bill 200 with the amendments proposed by Mr. Brown. Pete Frazier, City-County Health Department in Great Falls, read a letter (attached) from

Don Pizzini, City-County Health Department, Great Falls, who was unable to attend. Mr. Pizzini proposed the following amendment to Senate Bill 200: Number 2 of Section 5, Section 69-4004, Revised Codes of Montana, 1947, to read as follows: "The Department shall obtain the approval of the appropriate local board of health prior to issuing a license pursuant to this section. Each license issued under this section shall not be valid until contersigned by the local health officer having jurisdiction in the county in which the solid waste management system shall operate. The department shall refer all licenses to the local health officer for his validation signature prior to the issuance of a license by the department. The validation signature may be affixed only after the local health officer is satisfied that the solid waste management system can comply with the requirements of this chapter, and the rules adopted under this chapter. If the appropriate local board of health and local health officer fail to act upon any license application within fifteen (15) days of receipt of said license application, the department may then issue a license without the local validation signature, after having inspected the proposed site to determine compliance with requirements of this chapter, and the rules adopted under this chapter." Bill Funk, Polson, Lake County tax payer, Jim Wylder, President of the Great Falls Coca-Cola Bottling Company and Cathy Bauer, Polson, testified in favor of Senate Bill 200. Elton Andrews, Helena, testified in support of Senate Bill 200 (attached).

Dean Zinnecker, Montana Association of Counties, testified in opposition to Senate Bill 200 stating this problem should be handled at the local level.

Bob Gannon, Montana Power, proposed an amendment to Senate Bill 200 as follows: 1. Amend page 11, section 9. Following: line 12 Insert: "(3) Nothing in this act may be construed to require a license under this act for disposal of solid or hazardous waste or transportation of hazardous waste from a facility for which an applicant has obtained a certificate under the Major Facility Siting Act." (attached)

Robert Helding, Executive Director, Montana Wood Products Association, Missoula, proposed the following amendment to Senate Bill 200: Section 3, page 4, line 13, change the period to a comma and insert "excluding wood chips and wood used for manufacturing or fuel purposes." (attached)

Senator Warden, in her closing statement, stated

federal requirements for land fill operations will be implemented in five years in Montana.

The committee held a brief discussion of Senate Bill 200.

ADJOURN: The meeting adjourned at 10:55 with the next meeting to be held Thursday, February 10, 1977.

George McCallum

Senator George McCallum, Chairman

mm

ROLL CALL

LOCAL GOVERNMENT COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-9-77

NAME	PRESENT	ABSENT	EXCUSED
George McCallum	✓		
Robert Watt	✓		
Pete Story	✓		
Frank Dunkle	✓		
Lloyd Lockrem			
Bob Peterson	✓		
Cornie Thiessen	✓		
Bill Thomas			
Senator Murphy	✓		

SENATE Local Government COMMITTEE

BILL SB 200 VISITORS' REGISTER DATE 2-9-77

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPOSE
Quinn Thompson	Thompson Excelsior	200	✓	
Fred Flowers	Fred's Crane Service	200	✓	
Marvin E Mintzgala	Mister M Disposal	200	✓	
James M Wagner	Montana Soft Drink Assoc	200	✓	
Keith Smith	Lyons Coke of Helena	200	✓	
R F Jorgensen Sr	E Faith Coca Cola Bottling	200	✓	
Elton M Andrew	Private Citizen	200	✓	
Phil Gasser	Montana Soft Drink Assn	200	✓	
Larry Lammers	SCMB	200	✓	
Kathleen L Bowers	S. Bill Poderella Local Unions	200	✓	
Bill Fauke	SELF	200	✓	
Sandi LaFalle	SELF			✓
Donna Hartley	Hartleys Garbage Service			✓
PETE FRAZIER	GT. FALLS C.Ty-Co. Health Dept	200	✓	
Russ Riben	Flathead County	200		X
Jim Murry	Mont. State AFL-CIO	200	✓	
Stephen H. Williams	ANACONDA Co.	200	✓	
Bob Hanson	Montana Power	200	✓ (amended)	
[illegible]	Montana Contractors Assoc	200	Amend	
Robert N. Keeling	Montana Wood Products Assn	200	Amend	
Dave Manning	St Comm on Local Govt			
Glen Drake	Leag of Cities & Towns	200	Amend	
Dean Zinnecker	Mt. Assn of Co	200		✓
Ross Carrell	Mont Farm Bur Fed	200	✓	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Senator Waldron

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

S. B. 200 IS THE BASIC REVISION OF THE REFUSE DISPOSAL AREAS ACT. THIS BRINGS IT IN COMPLIANCE WITH THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT OF 1976.

THE NATIONAL ACT PROVIDES TECHNICAL AND FINANCIAL ASSISTANCE FOR THE DEVELOPMENT OF MANAGEMENT PLANS AND FACILITIES FOR THE RECOVERY OF ENERGY AND OTHER RESOURCES FROM DISCARDED MATERIALS AND FOR THE SAFE DISPOSAL OF DISCARDED MATERIALS, AND TO REGULATE THE MANAGEMENT OF HAZARDOUS WASTE. IT IS KNOWN AS THE "RESOURCE CONSERVATION AND RECOVERY ACT OF 1976".

MY BILL REQUIRES A STATE PLAN AS PROPOSED IN THIS BILL.

SECTION 1: ALLOWS FOR A BROADER AND MORE COMPREHENSIVE STATE POLICY STATEMENT FOR SOLID WASTE MANAGEMENT.

SECTION 2: THIS PROVIDES NEW AND MORE COMPREHENSIVE DEFINITIONS FOR SOLID WASTE, HAZARDOUS WASTES AND SOLID WASTE SYSTEMS. MONTANA SOLID WASTE PROBLEMS HAVE EVOLVED INTO NEW AREAS OF CONCERN, INCLUDING HAZARDOUS WASTE MANAGEMENT, STORAGE, TRANSFER STATIONS AND RESOURCE RECOVERY FACILITIES. WE NEED TO MAKE OUR STATE LAW COMPATIBLE WITH THE FEDERAL PUBLIC LAW 94-580.

SECTION 3: THIS IS NECESSARY SO THAT DETERMINATION OF "UNAPPROVED" DISPOSAL WILL BE MORE PRECISE AND AGAIN COMPLY WITH PUBLIC LAW 94-580. IT EXPANDS THE AUTHORITY OF THE STATE TO MAINTAIN CONTROL OVER THE TRANSPORTATION AND DISPOSAL OF HAZARDOUS WASTES STATEWIDE.

IT MANDATES THAT STATES ELIMINATE ALL OPEN DUMPS, AS PROVIDED IN THE RESOURCE CONSERVATION AND RECOVERY ACT OF 1976.

SECTION 4: ONE OF THE MOST IMPORTANT CHANGES IN THE REFUSE DISPOSAL

-- REQUIRES THAT A LICENSE WOULD BE ISSUED

MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
Environmental Sciences Division
Solid Waste Management Bureau
Helena, Montana 59601

Senator Hazelbaker

Revised
January 20, 1977

REFUSE DISPOSAL AREAS ACT SB 200

Section 1. Legislative Findings and Policy.

Allows for a broader and more comprehensive state policy statement for solid waste management.

Section 2. Definitions.

New and more comprehensive definitions for solid waste, hazardous wastes, and solid waste systems are being requested because solid waste management in Montana has evolved into new areas of concern including hazardous waste management, storage, transfer stations and resource recovery facilities.

These new definitions are also required so that state law will be compatible with the federal Resource Conservation and Recovery Act of 1976 (Public Law 94-580).

Section 3. Unapproved Disposal.

Required in order that the determination of "unapproved disposal" will be more precise and made compatible with the remainder of the Refuse Disposal Areas Act.

Would expand the authority of the state to maintain a measure of control over the transportation and disposal of hazardous wastes statewide.

Will assure that the state act is compatible with Public Law 94-580, which requires states to eliminate all open dumps.

Section 4. License Required. important section

Repeals that portion of the original Refuse Disposal Areas Act which required that a license be issued by local boards of health. Since the inception of the original act, only 15 licenses have been issued by local boards of health and this requirement has proven to be unworkable.

Under the proposed revision, the Department of Health and Environmental Sciences, with the recommendations of local boards of health or health departments, would issue the licenses and provide for the proper disposal of solid wastes.

Required to insure that state law is in compliance with Public Law 94-580. The federal law requires states to provide an inventory of all open dumps and develop compliance schedules for closing all open dumps. This licensing program will assist the state in meeting this federal requirement.

TELEGRAM

M
WU TXA PTL•
MSHR HEL
430P PST FEB 8
PRA675(1916)(2-241797E039)PD 02/08/77 1915
ICS IPMMTZZ CSP
4067211120 TDMT MISSOULA MT 74 02-08 0715P EST
PMS SENATOR MARGARET WARDEN
STATE CAPITAL BLDG
HELENA MT
WE BELIEVE SENATE BILL 200 IS NECESSARY IN THE STATE OF MONTANA

BECAUSE OF OUR RECYCLING OPERATIONS LOCATED THROUGHOUT EASTERN AND WESTERN MONTANNA WE MAKE IT OUR POLICY TO KNOW ABOUT SOLID WASTE. THROUGH OUR TRAVELS ACROSS THE STATE WE HAVE OBSERVED LANDFILLS AND DUMPS NOT COMPLYING WITH STATE LAWS. AT THE PRESENT TIME THERE IS VERY LITTLE AUTHORITY TO IMPOSE SOLID WASTE LAWS. THEREFORE SENATE BILL 200 IS GREATLY NEEDED IN MONTANA .
MONTANNA RECYCLING INC DOUGLAS G STEWART PRESIDENT MISSOULA
MT
NNN

PROPOSED AMENDMENTS TO SENATE BILL 200

Department of Health and Environmental Sciences

Senate Bill 200 is hereby amended to read as follows:

1. On page 2, lines 18 and 19, after "facilities;" delete "septic tank and cesspool pumpings";

2. On page 2, line 21, following "and" delete "wood wastes" and insert "wood products or wood by-products";

3. On page 2, line 22, after "effluents," delete "or";

4. On page 2, line 24, after "state lands" insert ", or slash and forest debris regulated under laws administered by the department of natural resources and conservation" ;

5. On page 3, line 22, delete "substance" and insert "solid waste or hazardous waste";

6. On page 3, line 22, after "so that the" delete "substance" and insert "solid waste or hazardous waste";

7. On page 6, line 17, after "solid waste" insert "or hazardous waste, transport hazardous waste,";

8. On page 10, line 25, after "waste" insert ", except hazardous wastes,"

9. On page 10, line 25, after "upon" delete "his own land" and insert "land owned, leased, or covered by easement or permit";

10. On page 11, after line 5, insert the following new subsections to read as follows:

"(2) A person may dispose of his own hazardous wastes upon land owned, leased, covered by easement or permit, after complying with the licensing requirements of this chapter and the rules that shall be adopted to regulate the disposal of hazard wastes.

(3) The licensing requirements of this chapter do not apply to the transportation of marketable hazardous wastes to a manufacturing or processing center."

11. On page 11, line 6, delete "(2)" and insert "(4)";

12. On page 11, line 6, after "contained in" insert "subsection (1) of";

13. On page 11, line 7, after "apply to" delete ":" and insert ",";

14. On page 11, lines 8 and 9, delete line 8 in its entirety through

CITY-COUNTY HEALTH DEPARTMENT
1130 - 17TH AVE. SOUTH
GREAT FALLS, MONTANA 59405

761-6312
PHONE [redacted]

BOARD OF HEALTH
COUNTY COMMISSIONER
MAYOR
SUPERINTENDENT CITY SCHOOLS
REPRESENTATIVE MEDICAL SOCIETY
REPRESENTATIVE DENTAL SOCIETY

February 9, 1977

Senator George McCallum, Chairman
Senate Local Government Committee
Montana State Senate
Capitol Building
Helena, Montana 59601

Dear Senator McCallum and Committee Members:

Due to other commitments, I am unable to appear before your committee today. Therefore, I have asked Mr. Pete Frazier, Director of Solid Waste Programs with the Great Falls City-County Health Department, to present, for the record, our comments on Senate Bill 200 for your consideration.

In general, we support most of Senate Bill 200 as it is proposed. We concur with the proposal that the Department of Health and Environmental Sciences should be the agency responsible for issuing licenses to Solid Waste Management Systems operating throughout Montana. We are aware of the current problems associated with local health departments licensing solid waste disposal sites within their own counties, and agree that a change is necessary. However, we do feel that it is extremely important that local boards of health and local health officers be given the opportunity to be directly involved in the final approval of licenses issued to solid waste management systems within their jurisdictions. Local health officers are totally familiar with all aspects of potential solid waste management sites within their jurisdiction, as they pertain to the public health and safety of the area, and are capable of making professional judgements as to the suitability of these potential sites. Therefore, we would like to respectfully submit a proposed amendment to Number 2 of Section 5. Section 69-4004, Revised Codes of Montana, 1947, to read as follows:

> The Department shall obtain the approval of the appropriate local board of health prior to issuing a license pursuant to this section. Each license issued under this section shall not be valid until countersigned by the local health officer having jurisdiction in the county in which the solid waste management system shall operate. The department shall refer all licenses to the local health officer for his validation signature prior to the issuance of a license by the department. The validation signature may be affixed only after the local health officer is satisfied that the solid waste management system can comply with the requirements of this chapter, and the rules adopted under this chapter. If the appropriate local board of health and local health officer fail to act upon any license application within fifteen (15) days of receipt of said license application, the department may then issue a license without the local validation signature, after having inspected the proposed site to determine compliance with requirements of this chapter, and the rules adopted under this chapter.

This proposed amendment is very similar, in principal, to existing subdivision regulations which requires the local health officer's validation signature for final approval of any subdivision, along with state approval. In addition, this proposed amendment is consistent with other proposed legislation found in HB 122 and HB 294, which proposes local health officer validation for public establishments licensed by the Department of Health and Environmental Sciences. This proposed amendment takes into account the fact that there are certain areas of the state that do not now have full time local health officers or active boards of health, by authorizing the state to proceed with the licensing procedure if local authorities do not act upon a license application within a short, specified time period.

Thank you for the opportunity to express these views to you. Your time, attention, and consideration of this amendment is truly appreciated.

Sincerely,

CITY-COUNTY BOARD OF HEALTH

By Donald E. Pizzini
Donald E. Pizzini
Health Officer

DEP/taf

I am Elton M. Andrew of Helena, Montana. I am a private citizen interested in the problems of Waste Disposal. I have been asked by Senator Warden to appear on behalf of the legislation introduced by her.

I do not necessarily say that I am an expert in the matter at hand, but I have had considerable experience in this area. For fifteen years I was Director of the Food and Drug Division of the Montana State Board of Helath. This is now known as the General Sanitation Division. For some sixteen years I worked in the schools, civic organizations and other areas in the field of Litter prevention. I have been retired since 1974 and have been working as a consultant on Litter Control. In the carrying out of this endeavor, I have worked in the following cities: Reno-Sparks, St. Paul, Tampa, Miami-Dade County, Macon-Bibb County, Siux Falls, Aberdeen, Chicago, Washington, D.C., Hnnolulu and the Island of Oahu, and many others. My job included the surveying of Disposal facilities and methods of collection of solid waste.

Solid Waste--- This year it has been called "the Third Pollution", although it had had less dainty names: solid waste was once refuse, beforet that trash, sometimes garbage and at one time swill. Once it came from the kitchen and consisted of potato peelings, fish heads and chicken feathers. It was not frozen food containers and cans and bottles and plastic wrapping. Only about ten percent of it is now composed of what most people think of as "real garbage".

Solid waste there undeniably is, and while we have always had garbage, it was never in today's awesome quantities. Some graound has been gained in the battle against litter, but our urban and rural waste growth outpaces out population growth. People are increasing at an annual rate of 1%, solid waste at 4 to 6 percent.

For Brown, Montana Power

SENATE BILL 200

1. Amend page 11, Section 9.
Following: line 12
Insert: "(3) Nothing in this act may be construed to require a license under this act for disposal of solid or hazardous waste or transportation of hazardous waste from a facility for which an applicant has obtained a certificate under the Major Facility Siting Act."

ROBERT N. HELDING
EXECUTIVE DIRECTOR

Sec. 3, p. 4, line 13

~~after the~~

Change the period to a comma and insert ~~-~~ including wood chips and wood used for manufacturing or fuel purposes.

MONTANA WOOD PRODUCTS ASSN.
316 SAVINGS CENTER BLDG.
MISSOULA, MONTANA 59801
(406)728-3650

NAME: Dave Gibbs DATE: 3/6

ADDRESS: [illegible] Box 2, Kalispell MT

PHONE: 755-5300 Ext. 228

REPRESENTING WHOM? Flathead County

APPEARING ON WHICH PROPOSAL: Senate Bill #220

DO YOU: SUPPORT? _____ AMEND? X OPPOSE? _____

COMMENTS: We feel that the original 67-[illegible]
the title adequate authority to oversee
[illegible] we can't return the solid waste
[illegible] Senators at the Coal [illegible]

NAME: STEPHEN WILLIAMS DATE: 2-9-77

ADDRESS: 1625 11th Ave.

PHONE: 443-5810

REPRESENTING WHOM? ANACON OA Co.

APPEARING ON WHICH PROPOSAL: SB-200

DO YOU: SUPPORT? X AMEND? X OPPOSE? _____

COMMENTS: Support bill as amended by Dept of Health.

NAME: James M. Wyther DATE: Feb 9, 1977

ADDRESS: 305 Division Rd, Great Falls, Mont

PHONE: 761-3741

REPRESENTING WHOM? Montana Soft Drink Associaten

APPEARING ON WHICH PROPOSAL: SB200

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: SB 200 & SB175 together are a comprehensive approach to solid waste management. They are not any easy solution, but do address total problem. Greatly preferable to piece-meal legislation

NAME: Marvin E Montgomery DATE: Feb 9 77

ADDRESS: Lit Edge Rt.

PHONE: 538-8393

REPRESENTING WHOM? Master "M" Dispersal

APPEARING ON WHICH PROPOSAL: SB 200

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: owner of one landfill + lessee of one landfill
that will fall under act.
Both with lic. by County

NAME: R.F. JORGENSEN SR. DATE: FEB 9TH 1977

ADDRESS: 1708 MEADOWLARK DR. GT. FALLS. MONT

PHONE: 453-0640

REPRESENTING WHOM? MONTANA SOFT DRINK ASSOCIATION

APPEARING ON WHICH PROPOSAL: S.B. 200

DO YOU: SUPPORT? Yes AMEND? _____ OPPOSE? _____

COMMENTS: To Conform to National Program on Solid Waste Management in Montana; A State wide management of Garbage + Waste is needed and the Program be policed to enforce proper handling of Solid Waste

FLATHEAD COUNTY
BOARD OF COMMISSIONERS
P. O. Box 1000
KALISPELL, MONTANA 59901

JOE A. DE LONG
FRANK GUAY
MELFORD R. WOLLAN

February 2, 1977

Hon. Pete Story
Local Government Senate Committee
Helena, Montana

Dear Senator Story:

We are firmly opposed to the State Department of Health and Environmental Sciences taking over the complete management of our solid waste disposal operations as proposed in Senate Bill #200, Section 7, 69-4007. We feel that the original 69-4007 gives the state adequate authority to oversee disposal areas but retains the solid waste disposal alternatives at the local level.

Please have the deleted Section 7, 69-4007 of Senate Bill #200 remain in place of the proposed amended form as introduced.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS

By Frank Guay
Frank Guay, Chairman

Melford R. Wollan
Melford R. Wollan

Joe A. DeLong
Joe A. DeLong

RR:lf

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

February 22, 1977

The meeting of the Local Government Committee was called to order by Chairman McCallum on February 22 at 9:33 A.M. in Room 410 of the State Capitol Building.

ROLL CALL: All members were present.

Senate Bill 200 - Proposed amendments (attached). Senator Watt moved to amend page 2, lines 18 and 19. Senator Dunkle seconded the motion. Motion carried unanimously. Senator Dunkle moved to amend page 2, line 21. Senator Watt seconded the motion. Motion carried unanimously. Senator Dunkle moved to amend page 2, line 22. Senator Thiessen seconded the motion. Motion carried unanimously. Senator Dunkle moved to amend page 2, line 24. Senator Watt seconded the motion. Motion carried unanimously. Senator Dunkle moved to amend page 3, line 22. Senator Watt seconded the motion. Motion carried unanimously. Senator Dunkle moved to amend page 6, line 17. Senator Watt seconded the motion. The motion carried unanimously. Senator Watt moved to amend page 7, line 1 Senator Dunkle seconded the motion. The Chairman called for a roll call vote. The motion carried. Senator Lockrem moved to amend page 10, line 25. Senator Peterson seconded the motion. The motion carried unanimously. Senator Lockrem moved to amend page 10, line 2. Senator Dunkle seconded the motion. The motion carried unanimously. Senator Dunkle moved to amend page 11, line 5. Senator Thiessen seconded the motion. The motion carried with Senator Lockrem voting no. Senator Dunkle moved to amend page 11, line 6. Senator Peterson seconded the motion. Motion carried unanimously. Senator Thiessen moved to amend page 11, line 6. Senator Watt seconded the motion. Motion carried unanimously. Senator Dunkle moved to amend page 11, lines 8 and 9. Senator Watt seconded the motion. Motion carried unanimously. Senator Lockrem moved to amend page 8, line 4, following "similar" strike "occurences" insert "occurrences". Senator Dunkle seconded the motion. Motion carried unanimously. Senator Story moved to amend page 11 and 12, strike section 10 in its entirety. Senator Thiessen seconded the motion. The Chairman called for a roll call vote. Motion carried.

Senator Watt moved Senate Bill 200 be given an "And As So Amended, do Pass" recommendation. Senator Lockrem

seconded the motion. Motion carried with Senator Thiessen voting no.

ADJOURN: The meeting adjourned at 10:30 A.M.

George McCallum

Senator George McCallum, Chairman

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ROLL CALL

LOCAL GOVERNMENT COMMITTEE

45th LEGISLATIVE SESSION - - 1977 Date 2-22-77

NAME	PRESENT	ABSENT	EXCUSED
George McCallum	✓		
Robert Watt	✓		
Pete Story	✓		
Frank Dunkle	✓		
Lloyd Lockrem	✓		
Bob Peterson	✓		
Cornie Thiessen	✓		
Bill Thomas	✓		

Feb. 18, 1977

PROPOSED AMENDMENTS TO SENATE BILL 200

Department of Health and Environmental Sciences

Senate Bill 200 is hereby amended to read as follows:

1. On page 2, lines 18 and 19, after "facilities;" delete "septic tank and cesspool pumpings;"

2. On page 2, line 21, following "and" delete "wood wastes" and insert "wood products or wood by-products";

3. On page 2, line 22, after "effluents," delete "or";

4. On page 2, line 24, after "state lands" insert ", slash and forest debris regulated under laws administered by the department of natural resources and conservation, or marketable wood by-products"

5. On page 3, line 22, delete "substance" and insert "solid waste or hazardous waste";

6. On page 3, line 22, after "so that the" delete "substance" and insert "solid waste or hazardous waste";

7. On page 6, line 17, after "solid waste" insert "or hazardous waste, transport hazardous waste,";

8. On page 7, line 1, after "(2)", delete all of the language through the end of line 7 and insert "When the department receives an application for a license pursuant to the provisions of this chapter, the local health officer in the county where the solid waste management system will be located shall be notified in writing of the application within 15 days after the department has received the application. If the department decides to issue a license pursuant to the provisions of this chapter, the department shall notify the local health officer in writing. A license issued by the department under this section shall not be valid until signed by the local health officer having jurisdiction in the county in which the solid waste management system will be operated. The local health officer shall,

within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated. The local health officer may only refuse to validate a license issued under this chapter upon a finding that the requirements of this chapter and the rules implementing this chapter cannot be satisfied. If the local health officer refuses to validate the license, he shall notify the applicant, the department and any other interested person in writing. The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the board of health and environmental sciences within 30 days after receiving written notice of the local health officer's decision. The hearing before the board of health and environmental sciences shall be held pursuant to the contested case provisions of the Montana administrative procedures act.

9. On page 10, line 25, after "waste" insert ", except hazardous wastes,"

10. On page 10, line 25, after "upon" delete "his own land" and insert "land owned, leased, or covered by easement or permit";

11. On page 11, after line 5, insert the following new subsections to read as follows:

"(2) A person may dispose of his own hazardous wastes upon land owned, leased, covered by easement or permit, after complying with the licensing requirements of this chapter and the rules that shall be adopted to regulate the disposal or transport of hazardous wastes.

(3) The licensing requirements of this chapter do not apply to the transportation of marketable hazardous wastes to a manufacturing or processing center.

(4) If it is determined that an application for a certificate under the major facility siting act, title 70, chapter 8, R.C.M. 1947, will result in the generation, transport, storage, or disposal of hazardous wastes as defined in this chapter, the department shall conduct its review under the provisions of this chapter concurrently with the studies of air and water quality conducted under the provisions of the major facility siting act. A decision to grant or deny a license for the transport, storage or disposal of hazardous wastes under the provisions of this chapter shall be appealable concurrently with and subject to the same procedures established for the appeal of the department's air and water quality certification decision under the major facility siting act. If the initial license has been granted as specified in this subsection, all renewals or modifications of a license, or enforcement actions concerning alleged violations of the license and the provisions of this chapter shall be conducted pursuant to the procedures and enforcement provisions established in this chapter."

11. On page 11, line 6, delete "(2)" and insert "(4)";

12. On page 11, line 6, after "contained in" insert "subsection (1) of";

~~13.~~ On page 11, line 7, after "apply to" delete ":" and insert ",";

14. On page 11, lines 8 and 9, delete line 8 in its entirety through "(b)" on line 9.

SENATE COMMITTEE LOCAL GOVERNMENT

Date _____ Senate Bill No. 200 Time 10:50

NAME	YES	NO
George McCallum, Chairman	✓	
Robert Watt, Vice Chairman		✓
Pete Story	✓	
Frank Dunkle	✓	
Lloyd Lockrem	✓	
Bob Peterson		✓
Cornie Thiessen	✓	
Bill Thomas	✓	

Secretary

George McCallum
Chairman

Motion: Strike sect 10 SB 200

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE LOCAL GOVERNMENT

Date 2-22-77 Senate Bill No. 200 Time 10:21

NAME	YES	NO
George McCallum, Chairman		✓
Robert Watt, Vice Chairman	✓	
Pete Story	✓	
Frank Dunkle	✓	
Lloyd Lockrem		✓
Bob Peterson	✓	
Cornie Thiessen		✓
Bill Thomas	✓	

Secretary

George McCallum
Chairman

Motion: adopt #8 SB 200

(include enough information on motion--put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

February 23 19 77

MR. President

We, your committee on Local Government

having had under consideration Senate Bill No. 200

Respectfully report as follows: That Senate Bill No. 200

introduced bill, be amended as follows:

1. Amend page 1, title, line 14.
Following: "69-4007,"
Insert: "AND"
Following: "69-4008"
Strike: "AND 69-4009"

2. Amend page 2, section 2, lines 18 and 19.
Following: "facilities"
Strike: "septic tank and cesspool pumpings;"

3. Amend page 2, section 2, line 21.
Following: "wood"
Strike: "waste"
Insert: "products or wood by-products"

DXMXXXX

Chairman.

STATE PUB. CO.
Helena, Mont.

4. Amend page 2, section 2, line 22.
Following: "effluents"
Strike: "or"

5. Amend page 2, section 2, line 24.
Following: "lands"
Insert: ", slash and forest debris regulated under laws administered by the department of natural resources and conservation, or marketable wood by-products"

6. Amend page 3, section 2, line 22.
Following: line 21
Strike: "substance"
Insert: "solid waste or hazardous waste"
Following: "that the"
Strike: "substance"
Insert: "solid waste or hazardous waste"

7. Amend page 6, section 5, line 17.
Following: "solid waste"
Insert: "or hazardous waste, transport hazardous waste,"

8. Amend page 7, section 5, lines 1 through 7.
Following: "(2)"
Strike: lines 1 through 7
Insert: "When the department receives an application for a license pursuant to the provisions of this chapter, the local health officer in the county where the solid waste management system will be located shall be notified in writing of the application within 15 days after the department has received the application. If the department decides to issue a license pursuant to the provisions of this chapter, the department shall notify the local health officer in writing. A license issued by the department under this section shall not be valid until signed by the local health officer having jurisdiction in the county in which the solid waste management system will be operated. The local health officer shall, within 15 days after the department has notified the local health officer of its decision to issue a license under this chapter, make a final decision on whether the license will be validated. The local health officer may only refuse to validate a license issued under this chapter upon a finding that the requirements of this chapter and the rules implementing this chapter cannot be satisfied. If the local health officer refuses to validate the license, he shall notify the applicant, the department and any other interested person in writing. The applicant or any person aggrieved by the decision of the local health officer not to validate a license may appeal the decision to the board of health and environmental sciences within 30 days after receiving written notice of the local health officer's decision. The hearing before the board of health and environmental sciences shall be held pursuant to the contested case provisions of the Montana administrative procedures act.

9. Amend page 8, section 6, line 4.
Following: "similar"
Strike: "occurences"
Insert: "occurrences"

10. Amend page 10, section 8, line 25.
Following: "waste"
Insert: ", except hazardous waste,"
Following: "upon"
Strike: "his own"
Following: "land"
Insert: "owned, leased, or covered by easement or permit"

11. Amend page 11, section 9, line 5.
Following: line 5
Insert: "(2) A person may dispose of his own hazardous wastes upon land owned, leased, covered by easement or permit, after complying with the licensing requirements of this chapter and the rules that shall be adopted to regulate the disposal or transport of hazardous wastes.

(3) The licensing requirements of this chapter do not apply to the transportation of marketable hazardous wastes to a manufacturing or processing center.

(4) If it is determined that an application for a certificate under the major facility siting act, Title 70, chapter 8, R.C.M. 1947, will result in the generation, transport, storage, or disposal of hazardous wastes as defined in this chapter, the department shall conduct its review under the provisions of this chapter concurrently with the studies of air and water quality conducted under the provisions of the major facility siting act. A decision to grant or deny a license for the transport, storage or disposal of hazardous wastes under the provisions of this chapter shall be appealable concurrently with and subject to the same procedures established for the appeal of the department's air and water quality certification decision under the major facility siting act. If the initial license has been granted as specified in this subsection, all renewals or modifications of a license, or enforcement actions concerning alleged violations of the license and the provisions of this chapter shall be conducted pursuant to the procedures and enforcement provisions established in this chapter."
Renumber: subsequent subsections

12. Amend page 11, section 9, line 6.
Following: "in"
Insert: "subsection (1) of"

13. Amend page 11, section 9, line 7.
Following: "to"
Strike: ":"

14. Amend page 11, section 9, line 8.
Strike: subsection (a) in its entirety

15. Amend page 11, section 9, line 9.
Following: line 8
Strike: "(b) after July 1, 1977,"
Following: "land"
Insert: "of 5 acres or less made after July 1, 1977"

AND AS SO AMENDED, DO PASS

Senator George McCallum, Chairman

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 175	Creating a solid waste management program	Mar. 3	Warden	March 16	AS AMENDED BE NOT CONCURRED IN	April 6
SB 200	Providing control over the storage, treatment, and disposal of hazardous wastes.	Mar. 3	Warden	March 16	AS AMENDED BE CONCURRED IN	April 6
SB 381	Deleting the cumulative definition of large opencut mining operations.	Mar. 3	Etchart	March 23	BE NOT CONCURRED IN	March 30
SB 401	Consolidating administrative functions regarding building codes	Mar. 3	Lowe		Rereferred to State Admin.	March 7
SB 226	Shortening the time for processing petitions for removal of sanitary restrictions.	March 7	Story	March 9	AS AMENDED BE CONCURRED IN	April 6
HJR 90	Encourage and permit the construction of appropriate port facilities for unloading crude oil for shipment by pipeline to the northern states, including MT.	Mar. 10	Williams	March 18	DO PASS	March 23

March 16, 1977

The Natural Resources Committee convened in room 437 on March 16, 1977, at 8 a.m. with Chairman Shelden presiding and all members present (except Reps. Hirsch and Huennekens who were excused) for a hearing on the following bills:

SB 175 SENATOR MARGARET S. WARDEN, Senate District 18, the bill's chief sponsor, spoke first and a copy of her talk is exhibit 1 of the minutes. She said this bill allows for front-end solid waste disposal planning through grants to the counties.

TERRY CARMODY, Solid Waste Management Bureau of the Department of Health, gave a slide presentation on solid wastes--the need and proposed solutions. He presented to the committee copies of the March issue of Forward, which discusses these two bills. This is exhibit 2 of the minutes. He mentioned that 590,000 tons of refuse is generated annually in Montana and this is expected to increase to 810,000 tons by 1990. He said 77% of this is combustible (worth $6.50 a ton when compared to coal BTU); secondary materials can also be recovered. He said it could cost about $60 a ton to properly dispose of wastes so a small community is sometime ahead to haul it as far as 100 miles rather than run their own landfill dump. He mentioned a stoker type boiler would cost 2.8 million and the waste would cost about $6.15 to process. Suspended type boilers would cost about 5.3 million.

SENATOR WARDEN went through SB 175 explaining briefly the different sections. Exhibit 3 of the minutes is a copy of her statements. She said Douglas G. Stewart with the recycling center in Missoula supports this bill.

STEVE BROWN, Dept. of Health, said SB 175 is an attempt to deal with a pressing problem--the need of money. He said before federal funds can be made available a state plan must be adopted. He said the bill was amended to allow the state department to adopt the plan. He said Mr. Carmody is to be commended for his study of this problem.

JIM MURRY, Ex. Sec. of the MT AFL-CIO, spoke next in support and a copy of his testimony is exhibit 4.

STEVE WILLIAMS, Anaconda Co., said they support this bill.

GORHAM SWANBERG, Montana Railroad Association, said the bill would not have an impact on the railroads but sometimes the Railroad Assoc. takes a stand on bills they think are for the public good. He said they support this bill.

ELTON M. ANDREW, Montana Beer Wholesalers Assoc., spoke next and a copy of his testimony is exhibit 5.

JOE CROSSWHITE, Operating Engineers and WETA, spoke in support. He said it was a coincidence that he and Mr. Murry agree on garbage. He expressed a belief that all the heat wasted by burning garbage should be put to use. He said the coal miners oppose the concept but the operating engineers support it as it will mean jobs.

BOB HELDING, MT Wood Products, said they support the concept of SB 175.

She said unless there is a market it is not feasible to recover materials. She mentioned when glass sells for $32 a ton it is feasible to truck it to the West Coast--but at $20, no.

During questions Rep. Bengtson asked if funds will be taken from the Renewable Resources Program each year or if the local governments will become self-sustaining. Mr. Carmody said the money is being applied for just this time; HB 708 would supplement it. Rep. Hurwitz asked how Mr. Carmody envisioned this working in small communities. Mr. Carmody said it depends on where the community is situated. Columbus, he said, has found it more economical to haul to Billings than to operate their own. If the community is too far away the logical thing would be to have their own. He said this is why planning money is needed. Rep. Quilici mentioned Butte, Anaconda and Deer Lodge which have discussed forming a district at midpoint. Mr. Carmody said to keep in mind the need of a market for the energy as well as the secondary materials. Mr. Carmody said the planning money need not be asked for by a county, the only mandatory part was that if taken it be used for the purpose granted. Rep. Nathe said a community does not become obligated when accepting the planning money unless it turns up a feasible plan, in which case it is obligated to participate in the state plan.

SB 200 SENATOR MARGARET WARDEN, Senate District 18, as chief sponsor of the bill, left a copy of the law pertaining to solid waste disposal. She want through SB 200 explaining what it does, exhibit 7. She said this bill extends the authority of the state to regulate the transportation of hazardous wastes, and requires licenses to be issued by the Health Department for the proper disposal of solid wastes. She said in five years federal law says there is to be no more burning dumps. She said every Montanan creates 1100 pounds of garbage annually.

JIM MURRY, Ex. Sec. of the MT AFL-CIO, spoke in support and a copy of his testimony is exhibit 8.

STEVE BROWN, Lawyer for the Health Dept., said the big change in the law is to allow the Health Department to issue licenses. He said they asked for the licensing right because of the landfill problem--operators not in compliance. He said the district court ruled they did not have the authority at this time to shut down an improperly operating landfill. He said it provides for the right to appeal to the department. He urged passage of the bill.

STEVE WILLIAMS, Anaconda Co., said they support the concept and provisions of the bill.

ROBERT N. HELDING, Wood Products Assn., said they support the amended bill the committee has before them.

JOE CROSSWHITE, Operating Engineers and WETA, said they support the bi

BOB GANNON, Montana Power, said they were concerned about SB 175 in its introduced form but feel it is now satisfactory. He said they support both bills.

ELTON M. ANDREW, Montana Beer Wholesalers, said they support the bill. His testimony in exhibit 5 also covers this bill.

RUSS RIEBEN, Director of Flathead Recycling and on the County Refuse Disposal System of Flathead County, said the problem his county commissioners have is the problem of state versus local control of the management and operation of their landfill. He said on page 11, line 10, it requires reports and he would like to see that taken out.

DEAN ZINNECKER, MT Assn. of Counties, said it was basically a question of money. He said the local governments would love to have the resources to comply with what the state government promulgates. He said the property tax is burdensome now. He strongly recommended that section 10 be deleted.

Senator Warden in closing said the plan is feasible and urged the committee's consideration of the bill. She said there is no way the state can maintain proper health standards for dumps without some state control. She said we don't have the problems of other states yet but they are coming, especially around our growing urban areas.

During questions Mr. Carmody mentioned they would need to approve the planner, he would need to be a reputable person in the field of solid waste. He said they need the authority in the bill to ask for reports on hazardous wastes. Mr. Brown said it is important to keep subsection "d" as it coincides with rules already adopted. He suggested the following amendment on page 11, lines 12 and 13, to delete "solid waste management system" and insert "hazardous wastes, and the transportation of hazardous wastes".

Letters from companies interested in the energy derived from solid waste plants were received from Hoerner Waldorf, exhibit 9, and Anaconda, exhibit 10. These were left by Sen. Warden.

Meeting adjourned at 10 a.m.

Respectfully submitted,

Arthur H. Shelden

ARTHUR H. SHELDEN, Chairman

eas

April 6, 1977

The Natural Resources Committee convened in room 437, on April 6, 1977, at 8:05 a.m., with Chairman Shelden presiding and all members present (except Reps. Hirsch and Huennekens who were excused).

HJR 97 REP. JACK RAMIREZ, Dist. 64, said this concerns the decision of the Federal Power Commission which has limited the number of natural gas connections that can be made in the next two years. He said Billings used to average 1126 new connections and for 1977 they are permitted only 830 and those have already been spoken for. He gave the following figures to show other cities were also being squeezed: Glendive--average 215, for 1977, 158; Miles City--average 168, for 1977, 124; Wolf Point--average 69, for 1977, 45. He said these are quite severe limitations--should be imposed more gradually. He said if everyone were to switch to electrical heat that facility would not be able to take care of them.

REP. HOWARD C. PORTER, Dist. 65, a co-sponsor of the bill, said he concurs in everything Rep. Ramirez has said.

LES LOBLE, Montana-Dakota Utilities, said they naturally favor this legislation. He said residential customers use 165 MCF a year and industries .8 BCF--so the amount of gas we are concerned with is small in comparison. He said they had asked for this supportive legislation and the response has been gratifying.

ROD WILSON, Chamber of Commerce, Billings, spoke in support. He said they have 68,000 people in their vicinity and it had been estimated they would reach 95,700 by 1980--and this is quite an increase that will need to be serviced. He said the restriction causes delays in building and those delays means extra cost for the homeowners. He said he had talked to Montana Power and had learned all the prospective homeowners cannot go all electricity because they don't have the necessary hookups.

Rep. Ramirez said there were several amendments: page 1, line 12, strike "800" and insert "1220"; page 1, line 14, following "connect" insert "in Montana" and striking "1600" insert "an average of 1655"; and on page 1, line 15, following "made" insert "each year" and striking "1976" insert "1973 to 1975"; and on page 2, line 6, following "withdraw" to insert "or modify".

Chairman Shelden asked Mr. Loble if limiting the industrial use would insure adequate gas to take care of residential customers. Mr. Loble said there would be until 1985. He said if they didn't acquire 30 BCF each year additional they won't be able to make any new customer connections. Chairman Shelden asked if it is true that MDU has large acreages of potential gas under lease and if they were waiting for deregulation to develop this. Mr. Loble said they have large acreagesand that MDU explores as much as it can within its budget. He said MDU will not be the entity that finds the gas--that will be the smaller exploration companies. He said as far as prices --they are regulated by the PSC so it doesn't do them any good to wait.

Rep. Harper moved the adoption of Rep. Ramirez's amendments and the motion carried unanimously with those present (absent Hirsch, Huennekens, Burnett). Rep. Kessler moved that HJR 97 as so amended do pass. Motion carried unanimously with those present (same absent).

SENATE BILL 175

Rep. Bengtson, chairman of the subcommittee which studied the solid waste bills, said the subcommittee did not accept the amendments as proposed by the Leagues of Towns and Counties. She went through these amendments (exhibit 1). She said the counties want grant funds instead of planning money. Rep. Curtiss said she was the minority that favored the amendments in the subcommittee and she felt the amendment would enable the local people to use this money for some positive disposal work. Rep. Bengtson moved amendment 1 of exhibit 1 be not adopted. Rep. Curtiss moved a substitute motion of be adopted. Question was called and the motion failed--voting yes were Reps. Cox, Kessler, Davis, Hurwitz, Curtiss, Burnett (absent were Reps. Hirsch and Huennekens). The vote was reversed for the former motion of do not adopt. This motion carried. Rep. Bengtson said amendments 2 through 4 of exhibit 1 were word changes if admendment 1 was adopted so wouldn't apply. She said amendment 5 of exhibit 1 was to delete lines 1-20 on page 14. Rep. Nathe moved to delete lines 7 through 11 on page 14. This motion lost on a vote of 9 no and 5 yes (Burnett, Curtiss, Ernst, Hurwitz, Nathe), 3 absent (Quilici, Hirsch, Huennekens).

Rep. Bengtson moved to concur with SB 175 with no amendments. Rep. Davis said he had a question on section 9. Rep. Cox moved to delete this section. Rep. Frates asked if this would destroy the effectiveness of the bill by taking indebtedness out. The motion carried with 8 yes and 5 no (Bengtson, Cooney, Curtiss, Frates, Metcalf), 4 absent (Burnett, Hirsch, Huennekens, Quilici).

Rep. Curtiss moved a substitute motion of Do No Concur As Amended. This motion carried with 8 yes, 7 no and 2 absent. The 7 no were Shedlen, Harper, Cooney, Bengtson, Kessler, Metcalf, Quilici. Rep. Quilici had left his vote with the chairman. Absent were Hirsch and Huennekens.

SENATE BILL 200

Rep. Bengtson said the subcommittee recommended this bill be concurred in as amended. The subcommittee's suggested amendments are exhibit 2 of the minutes. Rep. Cooney, member of the subcommittee, said he did not favor the 6th amendment which changes the civil penalty back to criminal--he said this basically guts the enforcement of this act. Rep. Harper moved that amendments 1 through 5 be adopted. Motion carried with Rep. Davis voting no (absent same). Rep. Curtiss moved the adoption of amendments 6 and 7. She said if we change the penalty we will be relinquishing local control for state control. Motion carried with 8 yes, 6 no (Shelden, Harper, Cooney, Frates, Kessler, Metcalf), 3 absent (Quilici, Hirsch, Huennekens).

Rep. Harper moved as amended be concurred in. Rep. Curtiss made a substitute motion of do not concur as amended. She said the language in the bill is strong and will require strict control of local licensing. Rep. Frates said we must remember that it is the public health we are protecting with these bills. Question was called and the motion failed with 9 no, 6 yes (Burnett, Cox, Curtiss, Davis, Ernst, Hurwitz), 2 absent (Hirsch, Huennekens). Action was then taken on the motion to concur as amended and this motion carried with the vote being reversed.

Rep. Kessler moved that the committee reconsider its action on SB 175. The motion failed 7 to 7. The 7 nos were Cox, Curtiss, Davis, Ernst, Burnett, Bengtson, Nathe; and the 3 absent were Hirsch, Quilici, and Huennekens.

Rep. Hurwitz moved to reconsider the committee's action on SB 200. He said every community has a sanitarian and his job is to see that these conditions are met. This motion also failed on a similar 7 to 7 tie.

SENATE BILL 195

Rep. Harper, chairman of the subdivision subcommittee, said a summary sheet on all the subdivision bills had been prepared and passed to the committee (a copy is exhibit 3 of the minutes). He said amendments being presented on the different bills were agreed on by the Department of Community Affairs and the realtors. He said some were quite technical and the subcommittee had to rely on the expertise in these groups. He said the amendments tie up some of the loopholes. He said the subcommittee of five (Hurwitz, Metcalf, Ernst, Hirsch, Harper) had agreed unanimously on the amendments for the bills.

Rep. Harper moved the amendments for SB 195 (exhibit 4 of the minutes) be adopted and the bill as so amended be concurred in. Motion carried unanimously with those present (absent Hirsch, Huennekens, Quilici).

SENATE BILL 224

Rep. Harper said this would ensure legitimate exemptions are not taken away. He went through the subcommittee's suggested amendments (exhibit 5 of the minutes). Rep. Harper moved the bill as so amended be concurred in. Motion passed unanimously with those present (same absent).

SENATE BILL 225

Rep. Harper said this insures that land can't be sold until the preliminary plat is approved and the sale can't be completed until the final plat is approved. He said this allows the developer time to begin to sell the land (any money goes into escrow in the bank and the bank holds it until the plat is approved or for two years--if the plat is not approved in two years the money goes back to the purchasers. Rep. Harper moved the subcommittee's amendments, exhibit 6, and the bill as so amended be concurred in. Motion carried unanimously with the same absent.

SENATE BILL NO. 200

INTRODUCED BY WARDEN, BLAYLOCK, HEALY, RASMUSSEN, DEVINE, REGAN, TOWE, ROBERTS, FASBENDER, WATT, DUNKLE

BY REQUEST OF

THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING TITLE 69, CHAPTER 40; PROVIDING A SHORT TITLE FOR PURPOSES OF CITING THE CHAPTER; AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO LICENSE SOLID WASTE MANAGEMENT SYSTEMS; AUTHORIZING THE DEPARTMENT TO INITIATE AND MAINTAIN ACTIONS TO COLLECT CIVIL PENALTIES; PROVIDING CONTROL OVER THE STORAGE, TREATMENT, AND DISPOSAL OF HAZARDOUS WASTES; AND AMENDING SECTIONS 69-4001, 69-4002, 69-4003, 69-4004, 69-4005, 69-4006, 69-4007, AND 69-4008, ~~AND 69-4009~~, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 69-4001, R.C.M. 1947, is amended to read as follows:

"69-4001. Legislative findings and policy. It is hereby found and declared that the health and welfare of Montana citizens are being endangered by improperly operated ~~refuse-disposal-areas~~ solid waste management systems and by the improper and unregulated disposal of hazardous wastes. It is declared the public policy of this state to control ~~refuse--disposal--areas~~ solid waste management systems to protect the public health and safety and to conserve natural resources whenever possible."

Section 2. There is a new R.C.M. section numbered 69-4001.1 that reads as follows:

69-4001.1. Short title. This chapter may be cited as "The Montana Solid Waste Management Act".

Section 3. Section 69-4002, R.C.M. 1947, is amended to read as follows:

"69-4002. Definitions. Unless the context requires otherwise, in this chapter the following definitions apply:

(1) ~~"Garbage" means putrescible animal and vegetable wastes resulting from handling, preparation, cooking, and consumption of food.~~ "Solid waste" means all putrescible and nonputrescible wastes including but not limited to garbage; rubbish; refuse; hazardous wastes; ashes; sludge from sewage treatment plants, water supply treatment plants, or air pollution control facilities; ~~septic tank and cesspool pumpings~~; construction and demolition wastes; dead animals, including offal; discarded home and industrial appliances; and wood ~~wastes~~ PRODUCTS OR WOOD BY-PRODUCTS and inert materials. "Solid waste" does not mean municipal sewage, industrial wastewater effluents, ~~or~~ mining wastes regulated under the mining and reclamation laws administered by the

department of state lands. SLASH AND FOREST DEBRIS REGULATED UNDER LAWS ADMINISTERED BY THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION, OR MARKETABLE WOOD BY-PRODUCTS.

~~(2) "Refuse" means putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, street cleanings, dead animals, yard clippings, and solid market and solid industrial wastes.~~ "Department" means the department of health and environmental sciences, provided for in Title 82A, chapter 6.

~~(3) "Rubbish" means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, cardboard, abandoned automobiles, tin cans, wood, glass, bedding, crockery, and similar materials.~~ "Board" means the board of health and environmental sciences, provided for in 82A-605.

~~(4) "Department" means the department of health and environmental sciences, provided for in Title 82A, chapter 6.~~ "Person" means an individual, firm, partnership, company, association, corporation, city, town, local governmental entity, or any other governmental or private entity whether organized for profit or not.

~~(5) "Board" means the board of health and environmental sciences, provided for in section 82A-605.~~ "Dispose" or "disposal" means the discharge, injection, deposit, dumping, spilling, leaking, or placing of any

~~substance~~ SOLID WASTE OR HAZARDOUS WASTE into or onto the land so that the ~~substance~~ SOLID WASTE OR HAZARDOUS WASTE or any constituent of it may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(6) "Hazardous waste" means any waste or combination of wastes of a solid, liquid, contained gaseous, or semi-solid form which may cause or contribute to an increase in mortality or an increase in serious illness, taking into account the toxicity of the waste, its persistence and degradability in nature, its potential for assimilation or concentration in tissue, and other factors that may otherwise cause or contribute to adverse acute or chronic effects on the health of persons or other living organisms. Hazardous wastes include but are not limited to those which are toxic, radioactive, corrosive, flammable, irritants, strong sensitizers, or which generate pressure through decomposition, heat, or other means. EXCLUDING WOOD CHIPS AND WOOD USED FOR MANUFACTURING OR FUEL PURPOSES.

(7) "Storage" means the actual or intended containment of wastes, either on a temporary basis or for a period of years.

(8) "Transport" means the movement of wastes from the point of generation to any intermediate points and finally to the point of ultimate storage or disposal.

(9) "Treatment" means a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any solid waste so as to neutralize the waste or so as to render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume.

(10) "Hazardous waste management" means the management of the storage, transport, treatment, recycling, recovery, or disposal of hazardous wastes.

(11) "Resource recovery" means the recovery of material or energy from solid waste.

(12) "Resource recovery system" means a solid waste management system which provides for the collection, separation, recycling, or recovery of solid wastes, including disposal of nonrecoverable waste residues.

(13) "Resource recovery facility" means a facility at which solid waste is processed for the purpose of extracting, converting to energy, or otherwise separating and preparing solid waste for reuse.

(14) "Solid waste management system" means a system which controls the storage, treatment, recycling, recovery, or disposal of solid waste."

Section 4. Section 69-4003, R.C.M. 1947, is amended to read as follows:

"69-4003. ~~Dumping--in-an-unlicensed-area-is~~ Unapproved

disposal prohibited. No person~~,--partnership,--company--or corporation--shall--hereafter~~ may dispose of ~~any-garbage, rubbish-or-refuse~~ solid waste or transport hazardous waste ~~in-any-place~~ except as permitted under this ~~act~~ chapter."

Section 5. Section 69-4004, R.C.M. 1947, is amended to read as follows:

"69-4004. License required. ~~Each--year--each-person, partnership,-company-or-corporation-desiring--to--operate--a refuse--disposal--area--shall-obtain-a-license-for-operating same-from-the-local,-county--or--district--board--of--health having--jurisdiction.---To--obtain--a--license--to-operate-a disposal-area,-application-to-the-local,-county-or--district board--of--health-having-jurisdiction,-must-be-made-on-forms provided-by-it.-The-application-shall-contain-the--name--and residence--of--the--applicant,--the-location-of-the-proposed disposal-area-and-such-other-information-as--the--department may--by--regulation--require.---There--shall--be-paid-to-the local,--county--or--district--board--of--health--with---each application-for-such-license-or-for-renewal-of-such-license, an-annual-license-fee-of-twenty-five-dollars-($25).-This-fee is--to--be--deposited--in--the-general-fund-of-the-county-in which-the-refuse-disposal-area-is-to-be-located.~~ (1) Except as provided in 69-4008, no person may dispose of solid waste OR HAZARDOUS WASTE, ~~or~~ operate a solid waste ~~OR-HAZARDOUS WASTE,-TRANSPORT--HAZARDOUS--WASTE,~~ management system, OR

TRANSPORT HAZARDOUS WASTE ~~without a license from the department. The department shall provide application forms for a license as provided in this chapter. The application shall contain the name and business address of the applicant, the location of the proposed solid waste management system, a plan of operation and maintenance, and such other information as the department may by rule require.~~

~~(2) The department shall seek the advice and recommendations of the appropriate local board of health before issuing a license pursuant to this section. Before making a decision on a license application, the department shall inspect the proposed site in order to determine if the requirements of this chapter and rules adopted under it can be satisfied.~~ WHEN THE DEPARTMENT RECEIVES AN APPLICATION FOR A LICENSE PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE LOCAL HEALTH OFFICER IN THE COUNTY WHERE THE SOLID WASTE MANAGEMENT SYSTEM WILL BE LOCATED SHALL BE NOTIFIED IN WRITING OF THE APPLICATION WITHIN 15 DAYS AFTER THE DEPARTMENT HAS RECEIVED THE APPLICATION. IF THE DEPARTMENT DECIDES TO ISSUE A LICENSE PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE DEPARTMENT SHALL NOTIFY THE LOCAL HEALTH OFFICER IN WRITING. A LICENSE ISSUED BY THE DEPARTMENT UNDER THIS SECTION SHALL NOT BE VALID UNTIL SIGNED BY THE LOCAL HEALTH OFFICER HAVING JURISDICTION IN THE COUNTY IN WHICH

THE SOLID WASTE MANAGEMENT SYSTEM WILL BE OPERATED. THE LOCAL HEALTH OFFICER SHALL, WITHIN 15 DAYS AFTER THE DEPARTMENT HAS NOTIFIED THE LOCAL HEALTH OFFICER OF ITS DECISION TO ISSUE A LICENSE UNDER THIS CHAPTER, MAKE A FINAL DECISION ON WHETHER THE LICENSE WILL BE VALIDATED. THE LOCAL HEALTH OFFICER MAY ONLY REFUSE TO VALIDATE A LICENSE ISSUED UNDER THIS CHAPTER UPON A FINDING THAT THE REQUIREMENTS OF THIS CHAPTER AND THE RULES IMPLEMENTING THIS CHAPTER CANNOT BE SATISFIED. IF THE LOCAL HEALTH OFFICER REFUSES TO VALIDATE THE LICENSE, HE SHALL NOTIFY THE APPLICANT, THE DEPARTMENT AND ANY OTHER INTERESTED PERSON IN WRITING. THE APPLICANT OR ANY PERSON AGGRIEVED BY THE DECISION OF THE LOCAL HEALTH OFFICER NOT TO VALIDATE A LICENSE MAY APPEAL THE DECISION TO THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES WITHIN 30 DAYS AFTER RECEIVING WRITTEN NOTICE OF THE LOCAL HEALTH OFFICER'S DECISION. THE HEARING BEFORE THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES SHALL BE HELD PURSUANT TO THE CONTESTED CASE PROVISIONS OF THE MONTANA ADMINISTRATIVE PROCEDURE ACT."

Section 6. Section 69-4005, R.C.M. 1947, is amended to read as follows:

"69-4005. ~~Department to approve disposal area~~ State hazardous waste disposal facility. ~~Upon receipt of the application, the local, county or district board of health having jurisdiction shall notify the department who will~~

~~then cause to be made an inspection of the proposed site and determine if the proposed operation can comply with this act and rules and regulations adopted pursuant thereto. The department shall also inspect and approve plans which have been drawn up by the applicant for the creation of a refuse disposal area. When the department reports favorably upon the application, the local, county or district board of health having jurisdiction may issue a license to the applicant. All licenses shall expire one year after issuance, but may be renewed upon payment of an annual fee of twenty five dollars ($25).~~ The department may establish, maintain, and operate state hazardous waste management facilities to provide for the treatment, storage, or disposal of hazardous wastes accepted by the department as a result of spills, embargoes, citizen assistance requests, and other similar ~~occurrences~~ OCCURRENCES. A state facility shall meet all the requirements for a hazardous waste disposal site required by this chapter."

Section 7. Section 69-4006, R.C.M. 1947, is amended to read as follows:

"69-4006. Revocation ~~of~~ or denial ~~refusal to renew~~ of license. The ~~local, county or district board of health having jurisdiction~~ department may deny or revoke ~~or refuse to renew~~ any a license to operate a solid waste management system after ~~reasonable notice and hearing if it finds that~~

~~the disposal area is not operated in a sanitary manner, as set forth by this law and by the rules and regulations adopted under this law.~~ giving the applicant AND THE LOCAL HEALTH OFFICER written notice and an opportunity for a hearing before the board. The decision to deny or revoke a license may be made only after a finding that a solid waste management system cannot be operated or is not being operated in compliance with this chapter or a rule or order issued pursuant to this chapter. The hearing held before the board on a denial or revocation shall be held pursuant to the provisions of the Montana Administrative Procedure Act."

Section 8. Section 69-4007, R.C.M. 1947, is amended to read as follows:

"69-4007. ~~Rules and regulations inspections and recommendations~~ Powers and duties of department. ~~The department is authorized to promulgate rules and regulations for the operation of refuse disposal areas. Said regulations shall be prepared and published and shall contain sanitary standards for disposal areas. The department shall cause all licensed disposal areas to be inspected and recommended to the local, county or district board of health action which may be taken to enforce the provisions of this act.~~ (1) The department shall adopt rules governing solid waste management systems which shall include but not be limited to:

(a) requirements for the plan of operation and maintenance that must be submitted with an application under this chapter;

(b) the classification of disposal sites according to the physical capabilities of the site to contain the type of solid waste to be disposed of;

(c) the procedures to be followed in the disposal, treatment, or transport of solid wastes;

(d) the suitability of the site from a public health standpoint when hydrology, geology, and climatology are considered;

(e) procedures and requirements for the submis ion of reports on the operation and maintenance of a ~~solid-waste management--system~~ HAZARDOUS WASTE DISPOSAL SITE, THE TRANSPORT OF HAZARDOUS WASTE, and the generation of hazardous wastes; and

(f) any other factors relating to the sanitary disposal or management of solid wastes.

(2) The department has continuing authority and responsibility to inspect a solid waste management system under the provisions of this chapter. Inspections may be conducted only during reasonable hours and only after presentation of appropriate credentials identifying the inspector as a duly authorized employee of the department.

(3) The department may, through the attorney general

or appropriate county attorney, initiate and maintain in district court enforcement actions, as provided in this chapter, including actions to collect a ~~civil~~ CRIMINAL penalty or to enjoin the operation of a solid waste management system that is in violation of this chapter or a rule adopted by the department or order issued as provided in this chapter."

Section 9. Section 69-4008, R.C.M. 1947, is amended to read as follows:

"69-4008. ~~Landowner's--rights--preserved--publicly operated-disposal-areas~~ Exclusion from chapter. (1) This act chapter ~~shall~~ may not be construed to prohibit ~~any~~ a person from disposing of his own ~~garbage, rubbish or refuse~~ solid waste, EXCEPT HAZARDOUS WASTE, upon ~~his--own~~ land OWNED, LEASED, OR COVERED BY EASEMENT OR PERMIT as long as ~~such disposal~~ it does not create a nuisance or public health hazard. ~~Any--incorporated--city,--town,--rural-improvement district-or-county-may-establish-a-disposal-area-and-operate same-without-paying-the-annual-license-fee,--but--must--meet all-other-requirements-of-this-act.~~

(2) A PERSON MAY DISPOSE OF HIS OWN HAZARDOUS WASTES UPON LAND OWNED, LEASED, COVERED BY EASEMENT OR PERMIT, AFTER COMPLYING WITH THE LICENSING REQUIREMENTS OF THIS CHAPTER AND THE RULES THAT SHALL BE ADOPTED TO REGULATE THE DISPOSAL OR TRANSPORT OF HAZARDOUS WASTES.

(3) THE LICENSING REQUIREMENTS OF THIS CHAPTER DO NOT APPLY TO THE TRANSPORTATION OF MARKETABLE HAZARDOUS WASTES TO A MANUFACTURING OR PROCESSING CENTER.

(4) IF IT IS DETERMINED THAT AN APPLICATION FOR A CERTIFICATE UNDER THE MAJOR FACILITY SITING ACT, TITLE 70, CHAPTER 8, R.C.M. 1947, WILL RESULT IN THE GENERATION, TRANSPORT, STORAGE, OR DISPOSAL OF HAZARDOUS WASTES AS DEFINED IN THIS CHAPTER, THE DEPARTMENT SHALL CONDUCT ITS REVIEW UNDER THE PROVISIONS OF THIS CHAPTER CONCURRENTLY WITH THE STUDIES OF AIR AND WATER QUALITY CONDUCTED UNDER THE PROVISIONS OF THE MAJOR FACILITY SITING ACT. A DECISION TO GRANT OR DENY A LICENSE FOR THE TRANSPORT, STORAGE OR DISPOSAL OF HAZARDOUS WASTES UNDER THE PROVISIONS OF THIS CHAPTER SHALL BE APPEALABLE CONCURRENTLY WITH AND SUBJECT TO THE SAME PROCEDURES ESTABLISHED FOR THE APPEAL OF THE DEPARTMENT'S AIR AND WATER QUALITY CERTIFICATION DECISION UNDER THE MAJOR FACILITY SITING ACT. IF THE INITIAL LICENSE HAS BEEN GRANTED AS SPECIFIED IN THIS SUBSECTION, ALL RENEWALS OR MODIFICATIONS OF A LICENSE, OR ENFORCEMENT ACTIONS CONCERNING ALLEGED VIOLATIONS OF THE LICENSE AND THE PROVISIONS OF THIS CHAPTER SHALL BE CONDUCTED PURSUANT TO THE PROCEDURES AND ENFORCEMENT PROVISIONS ESTABLISHED IN THIS CHAPTER.

~~(2)~~(5) The exclusion contained in SUBSECTION (1) OF this section does not apply to~~:~~

~~(a) disposal of hazardous wastes; or~~

~~(b) after July 1, 1977,~~ a division of land OF 5 ACRES OR LESS MADE AFTER JULY 1, 1977 which falls within the definition of subdivision in Title 69, chapter 50, or the Montana Subdivision and Platting Act in Title 11, chapter 38."

Section 10. Section 69-4009, R.C.M. 1947, is amended to read as follows:

"69-4009. Penalty for violations. ~~Any person violating this act or regulations prescribed by the department under this act shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars ($50), nor more than five hundred dollars ($500). Each day upon which a violation of this act occurs shall be considered a separate offense.~~ (1) ~~A person who disposes of solid waste or operates a solid waste management system in violation of this chapter, a rule adopted as authorized by this chapter, or an order issued as provided in this chapter is subject to a civil penalty of not more than $1,000. Each day upon which a violation occurs is a separate violation.~~ ANY PERSON VIOLATING THIS ACT OR REGULATIONS PRESCRIBED BY THE DEPARTMENT UNDER THIS ACT, SHALL BE GUILTY OF A MISDEMEANOR AND, UPON CONVICTION, SHALL BE FINED NOT LESS THAN $50, NOR MORE THAN $500. EACH DAY UPON WHICH A VIOLATION OF THIS ACT OCCURS SHALL BE CONSIDERED A SEPARATE

DEFENSE.

(2) A person who stores, treats, transports, or disposes of a hazardous waste in violation of this chapter, a rule adopted as authorized by this chapter, or an order issued as provided in this chapter is subject to a civil penalty of not more than $25,000. Each day upon which a violation occurs is a separate violation."

-End-